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IN THE
COURT OF APPEALS OF INDIANA

BRANDON M. SKINNER,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 39A04-0710-CR-582
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE JEFFERSON CIRCUIT COURT
The Honorable Ted R. Todd, Judge
Cause No. 39C01-0703-MR-47

May 23, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant Brandon M. Skinner ("Skinner") appeals the sixty-five-year sentence imposed following his plea of guilty to Murder[1] and Conspiracy to Commit Murder.[2] We affirm.

Issue

Skinner presents a single issue for review: whether his sentence is inappropriate.

Facts and Procedural History

On or about January 5, 2007, Skinner, Brian Kemp ("Kemp"), Donielle Sherley ("Sherley"), Carissa Miller ("Miller") and Michael Corey Bowling ("Bowling") were present at Kemp's home in Hanover, Indiana. Sherley, who is Skinner's ex-wife and mother of their daughter, informed Skinner that her roommate, Ashley Robinson ("Robinson") molested their daughter.[3]

A plan was formulated to kill Robinson. Kemp provided Skinner with a shotgun and bullets. Skinner asked Miller and Sherley to find Robinson. The women planned to meet up with Skinner at a place referred to as "the bottoms." (App. 10.) Miller and Sherley found Robinson and took her to WalMart and then to meet Skinner, Kemp, and Bowling at the designated area.

Kemp and Robinson began to walk along together and talk. Bowling handed the shotgun to Skinner, and Miller, Sherley, and Bowling then left. Skinner approached

[1] Ind. Code § 35-42-1-1.
[2] Ind. Code §§ 35-42-1-1, 35-41-5-2.

Robinson and shot her in the head at close range. Kemp handed Skinner a second shell and Skinner shot Robinson a second time. Skinner then pulled her body into the Ohio River. Kemp and Skinner returned to Kemp's residence and disposed of the shotgun and Skinner's blood-stained clothing.

On March 19, 2007, the State charged Skinner, Kemp, Bowling, Sherley, and Miller with Murder and Conspiracy to Commit Murder. On June 1, 2007, Skinner agreed to plead guilty to both charges. The plea agreement provided that sentencing would be left to the discretion of the trial court, with the exception that Skinner would not receive consecutive sentences. On July 18, 2007, Skinner was sentenced to sixty-five years imprisonment. His motion to correct error was denied. Skinner now appeals.

Discussion and Decision

Skinner requests that we reduce his aggregate sentence in accordance with Indiana Appellate Rule 7(B), which provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Although he requests Appellate Rule 7(B) review, Skinner's sentencing argument primarily asserts that the trial court accorded too little weight to his mental illness and too much weight to his criminal history.

In Anglemyer v. State, 868 N.E.2d 482, 490 (Ind. 2007), clarified on reh'g, 875 N.E.2d 218 (Ind. 2007), our Supreme Court determined that trial courts are required to enter

[3] There is no evidence of record that the alleged molestation occurred, and Sherley testified at Kemp's trial that she falsely accused Robinson. Apparently, Sherley suspected that either Skinner or Bowling (Sherley's

sentencing statements whenever imposing sentence for a felony offense. The statement must include a reasonably detailed recitation of the trial court's reasons for imposing a particular sentence. Id. If the recitation includes the finding of aggravating or mitigating circumstances, then the statement must identify all significant mitigating and aggravating circumstances and explain why each circumstance has been determined to be mitigating or aggravating. Id. So long as it is within the statutory range, a sentencing decision is subject to review on appeal for an abuse of discretion. Id.

One way in which a trial court may abuse its discretion is to fail to enter a sentencing statement at all. Id. Another is to enter a sentencing statement that explains reasons for imposing a sentence and the record does not support the reasons, the statement omits reasons clearly supported by the record and advanced for consideration, or the reasons given are improper as a matter of law. Id. at 490-91.

However, under the new advisory statutory scheme, the relative weight or value assignable to reasons properly found, or to those that should have been found, is not subject to review for abuse of discretion. Id. at 491. To the extent that Skinner argues that the trial court accorded insufficient weight to his mental illness and too much weight to his criminal history, the issue is not available for review. We turn to our review of the nature of the offense and the character of the offender.

With regard to the nature of the offense, the advisory sentence is the starting point in our consideration of an appropriate sentence for the crime committed. Childress v. State, 848 N.E.2d 1073, 1081 (Ind. 2006). The nature of the offense is that Skinner pre-meditated and

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boyfriend) was the father of Robinson's unborn child.

orchestrated Robinson's murder. He sent Miller and Sherley to lure Robinson to the riverside, where he, Kemp, and Bowling were lying in wait. Skinner shot the victim, whom he knew to be pregnant, in the head. He then fired a second shot to make certain she was dead. Skinner disposed of Robinson's body in the Ohio River, and took steps to conceal other physical evidence. The circumstances of lying in wait, the execution style murder, the victim's pregnancy, and the concealment of the corpse all militate toward an aggravated sentence.

As to the character of the offender, Skinner had accumulated three prior misdemeanor convictions and one prior felony conviction.[4] He was on probation for battery at the time of the instant offense. After the instant offense, Skinner was charged with battery upon a jailer.

Skinner decided to plead guilty, which spared the State the expense of a trial. A guilty plea demonstrates a defendant's acceptance of responsibility for the crime and at least partially confirms the mitigating evidence regarding his character. Cotto v. State, 829 N.E.2d 520, 525 (Ind. 2005). Indiana courts have recognized that a defendant who pleads guilty deserves to have mitigating weight extended to the guilty plea in return, but it is not automatically a significant mitigating factor. Davis v. State, 851 N.E.2d 1264, 1268 n.5 (Ind. Ct. App. 2006), trans. denied. Here, however, Skinner had confessed to murder, there was an

[4] A copy of the pre-sentence investigation report on white paper is included within the appellant's appendix. We remind the parties that Indiana Appellate Rule 9(J) requires that "[d]ocuments and information excluded from public access pursuant to Administrative Rule 9(G)(1) shall be filed in accordance with Trial Rule 5(G)." Ind. Administrative Rule (G)(1)(b)(viii) requires that "[a]ll pre-sentence reports pursuant to Ind. Code § 35-38-1-13" are "excluded from public access" and "confidential." The inclusion of the report on white paper in the appellant's appendix is contrary to Trial Rule 5(G) that states in pertinent part: "Every document filed in a case shall separately identify information excluded from public access pursuant to Administrative Rule 9(G)(1) as follows: (1) Whole documents that are excluded from public access pursuant to

eyewitness to the murder, and physical evidence that incriminated him. His decision to plead guilty may well have been a pragmatic one. His plea agreement also eliminated the possibility of consecutive sentences.[5]

Skinner's mental health expert witness, Dr. Heather Henderson-Galligan, testified that she conducted an examination of Skinner and diagnosed him as having a "non-bizarre delusional disorder" that "contributes to psychological or psychiatric maladjustment." (Tr. 16.) Skinner was also diagnosed with a "character defect disorder," described by Dr. Henderson-Galligan as an "anti-social personality disorder" where the person has "a pattern of disregard for the rights of others and violates those rights of others." (Tr. 19.)

Skinner was also found to be psychologically or physiologically dependent on more than two substances, having reported heavy use of alcohol, crack cocaine, marijuana and methamphetamines. In Dr. Henderson-Galligan's opinion, Skinner was manipulated by his ex-wife and believed that Robinson had abused his daughter. He was "haunted by childhood difficulties." (Tr. 21.)

It is apparent that Skinner suffered from mental illness. However, he did not pursue mental health treatment to address his anti-social tendencies, but rather chose to avail himself of various illegal substances and alcohol, further impairing his ability to exercise good judgment.

Administrative Rule 9(G)(1) shall be tendered on light green paper or have a light green coversheet attached to the document, marked 'Not for Public Access' or 'Confidential.'"

[5] Skinner asserts that he received no benefit from his guilty plea because double jeopardy principles would have precluded a conviction and sentence for the conspiracy count. The State charged that the overt act in furtherance of the conspiracy was transporting Robinson to the meeting place. Because Skinner pled guilty to conspiracy, we need not speculate whether, had Skinner elected to proceed to trial, the State would have proven that Skinner, acting in concert with the other defendants, committed this separate act.

It is also clear that Skinner had a troubled childhood. Allegedly, Skinner was physically abused by a stepfather and sexually abused by a family friend. He was removed from his mother's home at age 13 after he committed a sexual offense against his sister. His teenage years were spent in detention facilities and a group home. Nevertheless, a defendant who presents evidence of a troubled childhood is not automatically entitled to a reduction in his or her sentence. Page v. State, 615 N.E.2d 894, 896 (Ind. 1993).

In sum, neither the nature of the offense nor the character of the offender suggests a lesser sentence. Skinner has not persuaded us that his sixty-five-year sentence is inappropriate.

Affirmed.

FRIEDLANDER, J., and KIRSCH, J., concur.